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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.  | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------|------------------|
| 10/800,979  | 03/15/2004  | Thomas E. Eull       | S51.12-0050          | 1389             |
| 164   | 7590        | 07/12/2006           | EXAMINER             |                  |
| KINNEY & LANGE, P.A.<br>THE KINNEY & LANGE BUILDING<br>312 SOUTH THIRD STREET<br>MINNEAPOLIS, MN 55415-1002 |             |                      | WEBB, TIFFANY LOUISE |                  |
|   |             |                      | ART UNIT             | PAPER NUMBER     |
|   |             |                      | 3616                 |                  |

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |  |  |
|------------------------------|--------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/800,979 | <b>Applicant(s)</b><br>EULL, THOMAS E. |  |
|                              | <b>Examiner</b><br>Tiffany L. Webb   | <b>Art Unit</b><br>3616                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/15/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 37. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet **within the range of 50 to 150 words**. It is important that the abstract **not exceed 150** words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be

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avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The disclosure is objected to because of the following informalities: on page 7, line 1, "portions 110A and 110B" should be changed to "portions 100A and 100B."

Appropriate correction is required.

#### ***Claim Objections***

4. Claims 8-12 are objected to because of the following informalities: claims 8-12 depend from claim 1, but they appear to be substantial duplicates of claims 2-6. The examiner believes that claims 8-12 were meant to depend from independent claim 7 and therefore have been examined as such. The examiner suggests correcting the dependency of claims 8-12. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim1-2, 4-8, 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Konop (US 6,478,317). Regarding claim 1, Konop discloses having a mounting bracket

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for attachment to a vehicle frame for pivotally connecting a booster axle assembly having a pair of arms, an axle connected between the arms (see Figure 3), the mounting bracket (see Figure 6) including: a u-shaped portion (see Figure 6) having a base (near 184) and a pair of legs (see Figure 6) connected to the base, each leg having a free end, the pair of legs and base defining a space for receiving the first end of one of the arms of the booster axle (see Figure 6), wherein each leg has first and second appendages defining a slot (see Figure 4); further having a mounting plate (near 120) connected to the base of the u-shaped portion. Regarding claim 2 and 8, Konop discloses having aligned openings (184) extending through the first and second appendages of the pair of legs (see Figure 4). Regarding claim 4 and 10, Konop discloses having a gusset (182) connecting the mounting plate and the base of the u-shaped portion. Regarding claim 5 and 11, Konop discloses having a slot that extends substantially up to the base (see Figure 4). Regarding claim 6 and 12, Konop discloses the u-shaped portion and the mounting plate being formed unitarily (see Figure 4). Regarding claim 7, Konop discloses having a mounting bracket for attachment to a vehicle frame for pivotally connecting a booster axle assembly having a pair of arms (see Figure 3), an axle connected between the arms, the mounting bracket (see Figures 4 and 6) including: a u-shaped portion (see Figure 6) having a base (near 184) and a pair of legs (see Figure 6) connected to the base, each leg having a free end, the pair of legs and base defining a space for receiving the first end of one of the arms of the booster axle (see Figure 6), wherein each leg has first and second appendages defining a slot (see Figure 4); further having a mounting plate connected to the base of the u-

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shaped portion (near 120); a bearing housing (164) connected to the first end of each arm, the bearing housing containing a pivot bearing (172); and a pivot pin (166) the length of the central opening of the pivot bearing with exposed opposite side and the end portions of the pin being secured within the slots of the mounting bracket (see Figure 6). Regarding claim 13, Konop discloses having a pivot mount system for pivotally mounting a booster arm to a vehicle frame (see Figure 3), the mount system including: a u-shaped portions (see Figure 6); a pair of legs defining a pair of connection sites for connecting the u-shaped portion (see Figures 4 or 6) to a pivot bearing (172); a mounting plate (near 120), the mounting plate and the u-shaped portion being formed unitarily (see Figure 4), and the mounting plate being attached to a frame member (130).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konop in view of Hulstein et al. (US 6,135,469). Konop is discussed above and fails to disclose having a plurality of openings in the mounting plate for attaching the mounting bracket to the vehicle frame. Hulstein et al. discloses having a plurality of openings (see Figure 4) in a mounting plate (20) for a booster axle mounting system (see Figure

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1), in order for the bracket to be attached to the vehicle frame (24). It would have been obvious to one of ordinary skill in the art at the time of the invention to have made the bracket of Konop detachable in view of Hulstein et al. in order to make replacing the bracket easier.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are booster axle mounting assemblies: Derrwaldt (US 3,885,808), Ferris (US 4,421,331), Christenson et al. (US 4,762,421), and Konop (US 6,371,499).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tiffany L. Webb whose telephone number is 571-272-2797. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tiffany L. Webb

Examiner  
Art Unit 3616

tlw



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